

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**MARY JANE BRAMMER  
aka MARY J. BRAMMER  
P O Box 1293  
Novato, CA 94947**

**Registered Nurse License No. 308059**

RESPONDENT

Case No. 2013-339

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 29, 2012, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2013-339 against Mary Jane Brammer, aka Mary J. Brammer (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about September 30, 1979, the Board of Registered Nursing (Board) issued Registered Nurse License No. 308059 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2014, unless renewed.

3. On or about October 29, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2013-339, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and/Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

P O Box 1293  
Novato, CA 94947.

1           4.     Service of the Accusation was effective as a matter of law under the provisions of  
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
3 124.

4           5.     On or about December 6, 2012, the Certified Mail documents were returned and  
5 marked by the U.S. Postal Service, "Unclaimed." The address on the documents was the same as  
6 the address on file with the Board. Respondent failed to maintain an updated address with the  
7 Board and the Board has made attempts to serve the Respondent at the address on file.  
8 Respondent has not made herself available for service and therefore, has not availed herself of her  
9 right to file a notice of defense and appear at hearing.

10          6.     Business and Professions Code section 2764 states:

11                 The lapsing or suspension of a license by operation of law or by order or decision of  
12 the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive  
13 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding  
14 against such license, or to render a decision suspending or revoking such license.

15          7.     Government Code section 11506 states, in pertinent part:

16                 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a  
17 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
18 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's  
19 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

20          8.     Respondent failed to file a Notice of Defense within 15 days after service of  
21 the Accusation upon her, and therefore waived her right to a hearing on the merits of Accusation  
22 No. 2013-339.

23          9.     California Government Code section 11520 states, in pertinent part:

24                 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the  
25 agency may take action based upon the respondent's express admissions or upon other evidence  
26 and affidavits may be used as evidence without any notice to respondent.

27                 //

28                 //

10. Pursuant to its authority under Government Code section 11520, the Board after having reviewed the proof of service dated October 29, 2012, signed by Kami Pratab, and the returned envelope finds Respondent is in default. The Board will take action without further hearing and, based on Accusation No. 2013-339 and the documents contained in Default Decision Investigatory Evidence Packet in this matter which includes:

Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2013-339, Statement to Respondent, Notice of Defense (two blank copies), Request for Discovery and Discovery Statutes (Government Code sections 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail receipt or copy of returned mail envelopes;

Exhibit 2: License History Certification for Mary Jane Brammer, aka Mary J. Brammer, Registered Nurse License No. 308059;

Exhibit 3: Court and Arrest Records;

Exhibit 4: Affidavit of Kami Pratab;

Exhibit 5: Certification of costs by Board for investigation and enforcement in Case No. 2013-339;

Exhibit 6: Declaration of costs by Office of the Attorney General for prosecution of Case No. 2013-339

The Board finds that the charges and allegations in Accusation No. 2013-339 are separately and severally true and correct by clear and convincing evidence.

11. Taking official notice of Certification of Board Costs and the Declaration of Costs by the Office of the Attorney General contained in the Default Decision Investigatory Evidence Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement in connection with the Accusation are \$7,090.50 as of January 7, 2013.

#### DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Mary Jane Brammer, aka Mary J. Brammer has subjected her following license(s) to discipline:

- 1           a.     Registered Nurse License No. 308059
- 2           2.     The agency has jurisdiction to adjudicate this case by default.
- 3           3.     The Board of Registered Nursing is authorized to revoke Respondent's license(s)

4     based upon the following violations alleged in the Accusation, which are supported by the  
5     evidence contained in the Default Decision Investigatory Evidence Packet in this case.

- 6           a.     Violation of Business and Professions Code section 2761(a) - Unprofessional  
7                     Conduct.
- 8           b.     Violation of Business and Professions Code section 2761(f) - Conviction  
9                     substantially related to the qualifications, functions and duties of a  
10                  registered nurse.
- 11          c.     Violation of Business and Professions Code section 2762(b) - Use of controlled  
12                     substance or alcohol to an extent or in a manner dangerous or injurious to  
13                     oneself and others.
- 14          d.     Violation of Business and Professions Code section 2762(c) - Criminal  
15                     conviction involving alcoholic beverages or controlled substances.

16         //  
17         //  
18         //

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

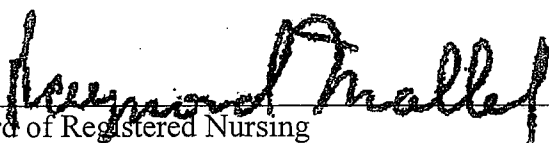
**ORDER**

IT IS SO ORDERED that Registered Nurse License No. 308059, heretofore issued to Respondent Mary Jane Brammer, aka Mary J. Brammer, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MAY 2, 2013.

It is so ORDERED APRIL 2, 2013.

  
\_\_\_\_\_  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

Attachment:

Exhibit A: Accusation No. 2013-339

# Exhibit A

Accusation No. 2013-339

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH

Deputy Attorney General  
4 State Bar No. 162030  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480  
E-mail: Judith.Loach@doj.ca.gov  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2013-339

13 **MARY JANE BRAMMER**  
14 **AKA MARY J. BRAMMER**  
15 **P.O. Box 1293**  
16 **Novato, CA 94947**

**ACCUSATION**

17 **Registered Nurse License No. 308059**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about September 30, 1979, the Board of Registered Nursing issued Registered  
24 Nurse License Number 308059 to Mary Jane Brammer, aka Mary J. Brammer ("Respondent").  
25 The Registered Nurse License was in full force and effect at all times relevant to the charges  
26 brought herein and will expire on November 30, 2012, unless renewed.

27 ///

28 ///

## 1

2

5

9

2.

## 6

7

8

0

• • •

2.

• • •

6

7



chapter to do any of the following:

...

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

...

9. Section 490 of the Code states:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

...

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

...

#### COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the

1 administrative law judge to direct a licentiate found to have committed a violation or violations of  
2 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
3 enforcement of the case.

4 FIRST CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct – Criminal Conviction)

6 11. Respondent is subject to disciplinary action under sections 2761, subdivisions (a) and  
7 (f), 2762, subdivision (c) and/or 490 in that on or about May 3, 2010, in a criminal proceeding  
8 entitled *The People of the State of California v. Mary Jane Brammer*, Marin County Superior  
9 Court, Case Number CR166758, Respondent pled guilty to a violation of Vehicle Code section  
10 23152(b) [driving with a blood alcohol level of at least .08 percent or more], a misdemeanor.  
11 Respondent was sentenced to three (3) years probation, fifteen (15) days in the county jail,  
12 ordered to pay \$2,256.00 in fines and complete a Drinking Driver Program. The facts in support  
13 of Respondent's guilty plea include the following:

14 a. On or about September 23, 2009, California Highway Patrol officers observed  
15 Respondent's vehicle weaving between two lanes, speeding and then changing lanes without  
16 signaling while travelling on Highway 101 in Marin City, California.

17 b. Upon contact, Respondent had the strong odor of alcohol on her breath, slurred  
18 speech with red and watery eyes. Respondent failed field sobriety testing at the scene. Her blood  
19 alcohol level pursuant to a breath testing was .13 percent.

20 SECOND CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct – Criminal Conviction)

22 12. Respondent is subject to disciplinary action under sections 2761, subdivisions (a) and  
23 (f), 2762, subdivision (c) and/or 490 in that on or about October 6, 2008, in a criminal  
24 proceeding entitled *The People of the State of California v. Mary Jane Brammer*, Sonoma  
25 County Superior Court, Case Number SCR 542069, Respondent pled no contest to a violation of  
26 Vehicle Code section 23152(b) [driving with a blood alcohol level of at least .08 percent or  
27 more], a misdemeanor. Respondent was sentenced to three (3) years probation and ordered to  
28

complete 100 hours of community service in lieu of fines. The facts and circumstances in support of Respondent's guilty plea include the following:

a. On or about July 6, 2008, at 1:18 a.m., Respondent's vehicle was observed driving in a serpentine manner, straddling two lanes on U.S. 101 in Sonoma County, California.

b. Respondent denied having consumed any alcoholic beverage. However, she displayed indicia of alcohol intoxication including the odor of alcohol on her breath and red eyes. An open bottle of Sake was located in the vehicle. Respondent failed field sobriety testing at the scene. Her blood alcohol level was .18 percent.

### THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Dangerous Use of Alcohol)

13. Respondent is subject to disciplinary action under sections 2761(a) and 2762(b) for use of alcoholic beverages, to an extent or in a manner dangerous or injurious to herself, any other person, or the public. The facts in support of this cause for discipline are set forth above in paragraphs 11 and 12, and are herein incorporated by reference.

### PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 308059, issued to Mary Jane Brammer, aka Mary J. Brammer;

2. Ordering Mary Jane Brammer, aka Mary J. Brammer to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: October 29, 2012

*for* Stacie Ben  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

SF2012401987